

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

IN THE MATTER OF	)	Docket No. CWA-07-2003-0098
	)	
The City of Richmond, Missouri	)	
Respondent	)	
	)	
NPDES Permit No. MO-0021822	)	FINDINGS OF VIOLATION
	)	AND ORDER FOR COMPLIANCE
	)	
Proceeding under Section 309(a)	)	
of the Clean Water Act, 33 U.S.C.	)	
§ 1319(a)	)	
	)	

**I. Statutory Authority**

NOW THEREFORE, the following FINDINGS OF VIOLATION are made and ORDER FOR COMPLIANCE is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Sections 308(a) and 309(a) of the Clean Water Act ("CWA" or the "Act"), 33 U.S.C. § 1319(a) as amended, which authority has been delegated by the Administrator to the Regional Administrator, EPA Region VII, and further delegated to the Director, Water, Wetlands and Pesticides Division.

**II. Findings of Violation**

1. The City of Richmond, Missouri, (The City or Respondent) is a "person" as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and is thus subject to its requirements.
2. The City owns and operates a Publicly Owned Treatment Works ("POTW") including a sanitary sewage collection system, called the Richmond North Wastewater Treatment Plant ("WWTP") located on Hines Street at the northeast edge of Richmond, Missouri, and operating under NPDES Permit Number MO-0021822. This POTW discharges pollutants as a point source into a tributary of the West Fork of the Crooked River in the Missouri River and West Central Tributaries Basin, a "Water of the United States", as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7).
3. Respondent's discharge of pollutants from its sanitary sewage collection system requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

4. The Missouri Department of Natural Resources ("MDNR") is the state agency with the authority to administer the federal NPDES program pursuant to Section 402 of the Act, 33 U.S.C. § 1342, implementing regulations, and a Memorandum of Understanding Between EPA and MDNR dated October 30, 1974. The EPA maintains concurrent enforcement authority with authorized state NPDES programs for violations of NPDES permits.

5. The MDNR issued NPDES Permit No. MO-0021822 to the City for the North WWTP with the effective date of October 14, 1997, and the expiration date of October 13, 2002. MDNR reissued the permit for the North WWTP with an effective date of November 1, 2002, and an expiration date of October 31, 2007.

#### Sewage Discharge

6. The permit for the North WWTP authorizes discharge only from outfall(s) with serial number(s) as specified in the application for said permit(s). NPDES Permit MO-0021822 allows discharge only from Outfall #001 at the Richmond North Plant.

7. The Standard Conditions, Part 1, Section B(1), to the NPDES Permit MO-0021822 require that all "discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant not authorized by this permit ... shall constitute a violation of the permit."

8. The Standard Conditions, Part 1, Section B(2), to the NPDES Permit MO-0021822 require that the "permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances."

9. On or about January 2, 2001, January 29, 2001, February 8, 2001, May 23, 2001, May 31, 2002, and July 1, 2002, a U.S. EPA inspector documented frequent sanitary sewer overflows from the City's sanitary sewage system.

10. The City reported to MDNR pursuant to the requirement set forth in paragraph 8 above, which documented discharges from the City's sanitary sewage collection system for the months and from locations other than Outfall #001 as identified in Attachment A to this Order.

11. Discharges from the City's sanitary sewage collection system as set forth in Attachment A were not authorized in NPDES Permit MO-0021822, and therefore constitute a violation of the permit.

### Sludge Discharge

12. NPDES Permit MO-0021822 requires that "there shall be no discharge of floating solids or visible foam in other than trace amounts."

13. Part C of the NPDES Permit MO-0021822 includes Special Conditions which require the following:

"4. General Criteria: The following water quality criteria shall be applicable to all waters of the state at all times including mixing zones. No water contaminant, by itself or in combination with other substances, shall prevent the waters of the state from meeting the following conditions:

a) Waters shall be free from substances in sufficient amounts to cause the formation of putrescent, unsightly or harmful bottom deposits or prevent full maintenance of beneficial uses;

b) Waters shall be free from oil, scum and floating debris in sufficient amounts to be unsightly or prevent full maintenance of beneficial uses;

c) Waters shall be free from substances in sufficient amounts to cause unsightly color or turbidity, offensive odor or prevent full maintenance of beneficial uses."

14. On or about February 11, 2003, a MDNR investigator observed and documented sludge deposits to an unnamed tributary to West Fork of Crooked Creek.

15. The City failed to report to MDNR said event as set forth in paragraph 14 above as required by the Standard Conditions, Part 1, Section B(2), to the NPDES Permit No. MO-0021822.

16. Discharges of sludge from the City's North WWTP and failure to report said discharges as described in paragraphs 14 and 15 above, were not in accordance with the terms and conditions of NPDES Permit MO-0021822, and therefore constitute a violation of the permit.

17. Respondent's operation and maintenance of its sanitary sewage collection system is a violation of special permit conditions 4(a), 4(b), and 4(c), as set forth in paragraph 13 above, and is a violation of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and implementing regulations. Respondent's discharge of sludge into "Waters of the United States" in violation of the NPDES permit is a violation of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and implementing regulations.

### **III. Order for Compliance**

Based on the foregoing Findings of Violation and pursuant to the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), Respondent is hereby ORDERED AS FOLLOWS:

1. Within five (5) days of the effective date of this Order, provide to EPA a copy of the City's plan for substantially reducing inflow and infiltration (I&I) from the wastewater treatment collection system, including a schedule for implementation of the plan. The plan shall address the volume of flow to be reduced and the methods or techniques to be used to make the reduction. If the City has no such plan, the City shall develop a plan to substantially reduce inflow and infiltration from the wastewater treatment collection system, including a schedule for implementation and submit such plan to the EPA for review and comment within sixty (60) days of the effective date of this Order.

- a. If the EPA approves of the plan for substantially reducing I&I, the plan shall be implemented according to the schedule for implementation in the approved plan.
- b. If the EPA disapproves the plan for substantially reducing I&I with comments, the City shall address the EPA comments and resubmit the plan for review within thirty (30) days of receipt of EPA's disapproval.
- c. Upon resubmission, EPA, in its sole discretion, may either approve the plan, or if EPA determines that the plan does not adequately address the comments provided by EPA, EPA may unilaterally modify the plan, and will provide Respondent with a copy of the plan as modified by EPA. Respondent shall implement the modified plan according to the schedule contained therein.

2. Within five (5) days of the effective date of this Order, provide to EPA a copy of the City's plan for bringing the North Wastewater Treatment Plant into compliance with its NPDES permit. The plan shall include but not be limited to, discussions of infrastructure upgrades, elimination of sludge discharge from the clarifier and elimination of plant wash out during rain events. If the City has no such plan, the City shall develop a plan to bring the North Wastewater Treatment Plant into compliance with its NPDES permit, including a schedule for implementation and submit such plan to the EPA for review within sixty (60) days of the effective date of this Order.

- a. If the EPA approves of the plan for bringing the North Wastewater Treatment Plant into compliance with its NPDES permit, the plan shall be implemented according to the schedule for implementation.
- b. If the EPA disapproves the plan for bringing the North Wastewater Treatment Plant into compliance with its NPDES permit with comments, the City shall address the EPA comments and resubmit the plan for review within thirty (30)

days of receipt of EPA's disapproval.

c. Upon resubmission, EPA, in its sole discretion, may either approve the plan, or if EPA determines that the plan does not adequately address the comments provided by EPA, EPA may unilaterally modify the plan, and will provide Respondent with a copy of the plan as modified by EPA. Respondent shall implement the modified plan according to the schedule contained therein.

3. Within five (5) days of the effective date of this Order, provide to EPA a copy of a plan for the operation and maintenance of the wastewater collection system and treatment plant that would optimize collection system and plant operations and minimize releases of untreated sewage or sludge from locations not authorized in the City's NPDES permit. If the City has no such plan, the City shall develop a plan for the operation and maintenance of the wastewater collection system, and treatment plant, including a schedule for implementation and submit such plan to the EPA for review and approval. Such developed plan shall be submitted to EPA within sixty (60) days of the effective date of this Order.

a. If the EPA approves of the plan for operation and maintenance, the plan shall be implemented according to the schedule for implementation.

b. If the EPA disapproves the plan for operation and maintenance with comments, the City shall address the EPA comments and resubmit the plan for review within thirty (30) days of receipt of EPA's disapproval.

c. Upon resubmission, EPA, in its sole discretion, may either approve the plan, or if EPA determines that the plan does not adequately address the comments provided by EPA, EPA may unilaterally modify the plan, and will provide Respondent with a copy of the plan as modified by EPA. Respondent shall implement the modified plan according to the schedule contained therein

4. Respondent shall send all responses required by this Order to be submitted to EPA to:

Cynthia L. Hutchison  
Environmental Engineer  
Water, Wetlands and Pesticides Division  
U.S. Environmental Protection Agency  
Region VII  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101

5. Respondent shall send copies of all deliverables required under this Order to:

Kevin Mohammadi  
Enforcement Chief  
Water Pollution Control Program  
Water Protection and Soil Conservation Division  
Missouri Department of Natural Resources  
P.O. Box 176  
205 Jefferson Street  
Jefferson City, Missouri 65102-0176

**IV. Failure to Comply**

6. The City's compliance with this Order does not constitute compliance with the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq., or with the City's NPDES permits. The City shall remain solely responsible for compliance with the terms of the Clean Water Act and this Order. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal action to seek penalties, fines, or other appropriate relief under this Act, including criminal punishment as provided in Section 309 of the Act, 33 U.S.C. § 1319.

**V. Not a Permit**

7. This Order does not waive or modify or in any way relieve the City of its obligations imposed by its permits, the Act or any Local, State, or Federal law.

**VI. Effective Date**

8. EPA has notified the State of Missouri of the above Findings and this Order.

9. This Order shall become effective upon the date of receipt by Respondent as documented by the certified mail, return receipt requested card signed by a City employee upon receipt.

10. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the U.S. EPA. Such notice shall not be given until all of the requirements of this Order have been met.

In the Matter of:  
The City of Richmond, Missouri  
Docket No. CWA-07-2003-0098

03/31/03  
Date

for Betty J. Berry  
Carol Kather  
Acting Director  
Water, Wetlands, and Pesticides Division  
U.S. Environmental Protection Agency  
Region VII  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Julie L. Murray  
Julie L. Murray  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region VII  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I hand delivered the original and one true copy of this Findings of Violation and Order For Compliance to the Regional Hearing Clerk, United States Environmental Protection Agency, 901 North Fifth Street, Kansas City, Kansas 66101.

I further certify that on the date noted below I sent by certified mail, return receipt requested, a true and correct copy of the signed original Findings of Violation and Order For Compliance to:

The Honorable Edward L. Swafford  
Mayor of the City of Richmond  
303 South Thornton Street  
Richmond, Missouri 74085

5/31/03  
Date

Amy Gonzales